IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 25.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.731 of 2006

N.Senthilkumar ... Petitioner

vs.

1. State represented
by the Secretary to Government,
Prohibition & Excise Department,
Fort Saint George,
Chennai-600 009.

2. The District Collector
and District Magistrate,
Pudukkottai District. ... Respondents

For Petitioner : Mr.O.S.Thilak Pasumbadiyar
For Respondents : Mr.M.Babu Muthu Meeran,
Additional Public Prosecutor.

Petition under Article 226 of the Constitution of India for the issuance of writ of habeas corpus to call for the records of the second respondent pertaining to the detention order made in PDO No.1 of 2006 dated 27.2.2006 in detaining the detenu under Tamil Nadu Act 14 of 1982 as Bootlegger, quash the same, direct the respondents to produce the detenu, namely, Rajendran, son of Subbaiya, who is detained at the Central Prison, Trichy, before Court and set him at liberty.

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the friend of the detenu by name Rajendran , who is detained as a "'Bootlegger " as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 27.02.2006, challenges the same in this petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in disposal of the representation of the detenu.

The particulars furnished by the learned Additional Public Prosecutor show that the representation was received by the Government on 03.03.2006, remarks were called for on 31.03.2006 and received on 17.04.2006. File was submitted on 17.04.2006 and dealt with by the Under Secretary and the Deputy Secretary on 18.04.2006. Finally, the Minister for Prohibition and Excise passed orders on 19.04.2006. However, the Rejection letter was prepared only on 10.05.2006 and sent to the detenu for service on 15.05.2006.

4. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 19.04.2006, there is no reason for taking time till 10.05.2006 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays, we hold that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

Gms

To

1. The Secretary to Government, Prohibition and Excise Department, Fort St. George, Chennai 600 009.

2. The District Collector and The District Magistrate, Pudukkottai District, Pudukkottai.

3. The Superintendent, Central Prison, Trichy.
(In duplicate for communication to detenu)

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4. The Joint Secretary to Government,
Public (Law and Order), Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

HCP. No.No.731 of 2006
25.09.2006.

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